APPENDIX J
REQUIREMENTS FOR THE LAND USE/TRANSPORTATION ANALYSIS PROGRAM FOR LOCAL JURISDICTIONS IN THE SAN BERNARDINO VALLEY AND VICTOR VALLEY AREAS

J.1. Background

Section VIII of the Measure I 2010-2040 Ordinance (approved by the voters of San Bernardino County on November 2, 2004) states:

> *"SECTION VIII. CONTRIBUTIONS FROM NEW DEVELOPMENT. No revenue generated from the tax shall be used to replace the fair share contributions required from new development. Each local jurisdiction identified in the Development Mitigation Program must adopt a development financing mechanism within 24 months of voter approval of the Measure 'I' that would:*
>
> *"1) Require all future development to pay its fair share for needed transportation facilities as a result of the development, pursuant to California Government Code 66000 et seq. and as determined by the Congestion Management Agency.*
>
> *"2) Comply with the Land Use/Transportation Analysis and Deficiency Plan provisions of the Congestion Management Program pursuant to California Government Code Section 65089.*
>
> *"The Congestion Management Agency shall require fair share mitigation for regional transportation facilities through a Congestion Management Program update to be approved within 12 months of voter approval of Measure 'I'."*

The above requirements apply to the San Bernardino Valley and Victor Valley cities[1] and unincorporated spheres of influence associated with those cities. Local jurisdictions in these areas must implement development mitigation programs that achieve development contribution requirements established by the SANBAG Development Mitigation Nexus Study (Nexus Study). The development contribution requirements are established by the Nexus Study for regional transportation improvements, including freeway interchanges, railroad grade separations, and regional arterial roadways on the Nexus Study Network. The Nexus Study Network for the San Bernardino Valley and the Victor Valley Subareas can be found in Appendix K of the CMP.

Implementation and maintenance of a development mitigation program is required of each local jurisdiction in the Valley and Victor Valley to maintain conformance with the SANBAG Land Use/Transportation Analysis Program of the CMP (see Chapter 4). The provisions of Appendix J are a part of the CMP Land Use/Transportation Analysis Program. SANBAG is required by the CMP to make an annual finding of local jurisdiction conformance to the provisions of the CMP. To support this finding, each jurisdiction must prepare a brief annual report demonstrating its continued compliance with the provisions of the Development Mitigation Program and other provisions of the CMP.

[1] San Bernardino Valley cities include: Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Yucaipa. Victor Valley cities include: Adelanto, Apple Valley, Hesperia, and Victorville.

The annual reporting requirements are discussed in Section J.8 of this appendix.

The requirements contained in this appendix are in response to the provisions of Section VIII of the Measure I 2010-2040 Ordinance. The requirements are based on the Development Mitigation Principles adopted by the SANBAG Board of Directors in July 2004. These principles are referenced in Chapter 4 of the CMP. The requirements in this appendix describe the key procedures local jurisdictions must follow when implementing and maintaining a conforming fair share development mitigation program.

J.2. Preparation of the Development Mitigation Nexus Study

SANBAG has prepared and shall periodically update a Development Mitigation Nexus Study. The Nexus Study, contained in Appendix K of the CMP, identifies minimum fair share contributions from new development for capacity enhancements to the regional transportation system, including freeway interchanges, railroad grade separations, and regional arterial roadways. The Nexus Study is based on development that was forecast to occur between 2004 and 2030. It contains the growth estimates and the corresponding development mitigation fair share estimates for projects included in the program. The methodologies used for calculating the fair share percentages associated with the freeway interchange, railroad grade separation and arterial roadway projects are included in the Nexus Study.

The Nexus Study is updated every odd year in close coordination with local jurisdictions. The update to the Nexus Study occurs in conjunction with the biennial update to the CMP, and SANBAG will notify local jurisdictions prior to initiating the update. During the update process, local jurisdictions are provided with the opportunity to review and comment on the Nexus Study and to include or exclude projects within their jurisdictions.

J.2.1 Nexus Study Project List

The Nexus Study identifies a Nexus Study Network, representing regional roadways in the urbanized areas of San Bernardino County. This network is based on a generalized set of criteria including roadway functional classification, propensity to carry inter-jurisdictional traffic, and connection to the freeway system. The Nexus Study Network may be modified as part of a Nexus Study update. SANBAG is responsible for determining the inclusion or exclusion of a proposed regional roadway on the network. Local jurisdictions are responsible for the inclusion or exclusion of projects on the network.

In the urbanized San Bernardino Valley and Victor Valley, roadway improvement projects must be located on the Nexus Study Network for their costs to be included in the Nexus Study and to be eligible to receive Measure I 2010-2040 Valley Freeway Interchange, Valley Major Street, and Victor Valley Major Local Highway funds. Additionally, projects not included in the Nexus Study are not eligible for SANBAG allocations of state or federal transportation funds included in the Measure I 2010-2040 Expenditure Plan. The Nexus Study development mitigation fair share requirements also apply to the Victor Valley Local Street Program insofar as the jurisdiction intends to use Measure I Local Street funds to add capacity to projects on the Nexus Study Network, per policy 40012, VVLS-8 of the Strategic Plan.

Inclusion in the Nexus Study is not a requirement to be eligible for receipt of state or federal transportation funds in areas outside of the urbanized areas. State or federal transportation funds, however, may not be used to supplant mitigation identified by a Traffic Impact Analysis Report (TIA) prepared in accordance with the requirements of Chapter 4 and Appendix C of the CMP.

The SANBAG Board may establish additional eligibility requirements for projects included in the Nexus Study either through amendment to the CMP or amendment to the Strategic Plan. Should an instance arise where the CMP and the Strategic Plan are inconsistent with each other, policies contained within the Strategic Plan shall prevail.

The Nexus Study identifies specific capacity enhancement projects for which development mitigation and public share funding are required. The Nexus Study also includes project descriptions, cost estimates and jurisdictional responsibilities for the projects where applicable. Local jurisdictions may wish to identify other local or non-regional improvements as part of their overall development mitigation program, but these will not be included in the Nexus Study.

J.2.2 Project Cost Estimates

The initial cost estimates for projects included in the Nexus Study were provided by local jurisdictions using the most current data available in 2005. Subsequent updates to the Nexus Study have allowed jurisdictions the opportunity to revisit the project cost estimates as project scopes have become more refined or additional planning efforts have been conducted.

Project costs may include costs associated with project study reports, preliminary engineering, environmental documentation, design, construction, construction management, project management, right-of-way, and mitigation of impacts or any other component of project development and delivery. Strategic Plan policies should be consulted regarding specific conditions for eligibility of reimbursement of expenditures with Measure I funds. Local jurisdictions must indicate the basis for their cost estimates and expend development contributions only on the types of cost items and phases of project development included in their cost estimates. For costs other than construction to be included in the Nexus Study project list, jurisdictions must specify costs for projects by phase and include the information in their local development mitigation program in addition to the Nexus Study.

Preparation of a local jurisdiction nexus study or other analyses supporting their development mitigation program may be included in the jurisdiction's cost estimate, if the study or analysis is consistent with California Government Code 66000 et. seq. In the cost estimate for arterial projects, local jurisdictions may not include costs of improvements such as sidewalk, curb and gutter and match-up pavement along undeveloped frontages, for which developers would ordinarily be responsible. Such costs may be included when frontages are already developed, are otherwise undevelopable (e.g. easements or permanent open space), or have other circumstances that make it infeasible for a developer/property owner to construct the frontage improvements. The replacement of an existing bridge is permitted as an eligible expenditure in the program. The eligible cost for the project will be calculated based on the ratio of the added width to the total width of the bridge after the addition. Such circumstances must be specified in the local jurisdiction development mitigation program.

Project cost management and equity are major concerns for SANBAG with the implementation of the Development Mitigation Program. In April 2009, the SANBAG Board adopted the Measure I 2010-2040 Strategic Plan, which established the policies and procedures for implementing Measure I. The effort to contain project costs resulted in several new elements to the Development Mitigation Program. These elements are discussed in greater detail below.

Equitable Shares: Within the Valley Subarea Arterial Sub-program, each jurisdiction is assigned an equitable share of Measure I 2010-2040 revenue from the program. The equitable share is defined as the ratio of public share costs for each jurisdiction's list of arterial projects to the total Valley arterial public share costs in the Development Mitigation Nexus Study approved by the SANBAG Board in November 2007. The equitable shares will remain fixed over the life of Measure I 2010-2040, being adjusted only as required due to annexation. A table has been added to the Nexus Study providing an estimate of each jurisdiction's equitable share baseline and the percentage over or under the baseline the jurisdiction is at the time of the most current Nexus Study update. Jurisdictions are permitted to include projects with costs that exceed their equitable share baseline within the Nexus Study. However, jurisdictions should be mindful that anticipated "public share" of project costs in excess of the equitable share baseline will need to be funded entirely by the jurisdiction, if Measure I revenue available to the Arterial Sub-program over the 30 years of the Measure proves to be consistent with the public share of project cost in the Arterial Sub-Program

Project Prioritization Lists: The Valley Freeway Interchange Program, Valley Rail/Highway Sub-program and the Victor Valley Major Local Highway Program are constrained by the total amount of Measure I, state, federal and development mitigation funds that can be contributed to the program. Consequently, each of the programs will be administered in accordance with a project prioritization list. Interchanges within the Valley Freeway Interchange Program were prioritized during the preparation of the Measure I 2010-2040 Strategic Plan. The prioritization list is based on a cost-benefit analysis using vehicle hours of delay reduced per million dollars invested. The Interchange Prioritization List has been amended into the Development Mitigation Nexus Study and will be updated every two years at the same time as the rest of the Nexus Study is updated.

The Rail/Highway Grade Separation Sub-program will also be administered in accordance with a project prioritization list. The project prioritization list will be based on the Public Utilities Commission methodology used to prioritize all state grade separations for the allocation of PUC funds. The Grade Separation Prioritization List will be prepared during the 2011 Nexus Study update. Preparation of the Grade Separation Prioritization List is not required at this time, as the SANBAG Board has prioritized a shelf of grade separation projects to be delivered in part with State Proposition 1B Trade Corridors Improvement Funds.

The Victor Valley Major Local Highways Program is governed by a master list of eligible projects based on an approximately equivalent share of funds among jurisdictions. The list shall be maintained and periodically updated in accordance with the Strategic Plan policies based on a recommendation of the Victor Valley Subarea representatives and the Mountain/Desert Committee.

J.2.3: Project Cost Escalation

Annually, project costs within the Nexus Study will be updated. Generally, project costs will be escalated through the application of a cost escalation factor. The cost escalation factor methodology, as amended by the Board of Directors on May 6, 2009 reaffirmed the use of the Caltrans Construction Items Index as the basis for estimating cost escalation. In addition, the Board approved the use of 0% as the floor and 15% as the ceiling for annual cost escalation with any amount over the ceiling or under the floor carried over into the subsequent year of cost escalation.

The escalation of project costs is necessary to ensure that development pays its share of the increases in project cost that occur over time. For all programs contained in the Nexus Study, the escalation factor will be applied to the final project cost once construction of a project has been completed. This guarantees that future development will pay its fair share for projects constructed early in the Development Mitigation Program.

For projects that have yet to be constructed in the Valley Arterial Sub-program, the escalation factor is applied to the equitable share baseline estimate for each jurisdiction. Jurisdictions are permitted to apply the escalation factor to all projects in the Valley Arterial Sub-program or to escalate costs at differential rates up to the amount of available equitable share projected for the jurisdiction. Jurisdictions that are able to demonstrate the sufficiency of their existing project costs may not be required to escalate costs in a given year. Sufficiency of existing project costs will be determined on a case-by-case basis subsequent to a thorough review of the project costs by SANBAG staff.

The annual escalation factor will be applied individually to project costs included in the Valley Freeway Interchange Program, Valley Rail/Highway Grade Separation Sub-Program, Victor Valley Major Local Highways Program and capacity enhancement projects on the Nexus Study Network for which Victor Valley jurisdictions will use Victor Valley Local Street funds.

Jurisdictions will have the opportunity to perform a more detailed review of project costs during the biennial Nexus Study updates. Updated project costs must be based on engineering estimates or another technically defensible planning-level study, including project study report, project report etc.). Local jurisdictions may be required to demonstrate to SANBAG that the estimates are reasonable and provide an accurate basis for cost escalation.

J.2.4 Addition/Subtraction of Projects

The addition or subtraction of projects to the Development Mitigation Program in the Nexus Study could affect all jurisdictions' ability to deliver projects under the program. Consequently, SANBAG has implemented safeguards on the programs to prevent over-subscribing the Measure I programs. As of the November 2007 update to the Development Mitigation Program approved by the Board, jurisdictions are no longer allowed to add to the net increase of the public share of a program. Consequently, interchanges, grade separations and arterial projects can only be added to the Nexus Study if a like amount of public share is subtracted from the program on another project or a jurisdiction increases its development share to mitigate any potential increase to the public share.

The subtraction of one or more projects from the Nexus Study is permitted by a jurisdiction, and any amount of escalated equitable share that results will be available for programming in subsequent updates to the Nexus Study by that jurisdiction so long as it does not result in a net increase to the public share obligation.

Any projects affected by annexation will be addressed individually at the time of annexation. Jurisdictions are subject to the provisions of state law regarding addition, deletion or substitution of projects.

J.2.5 Socio Economic Data and Development Mitigation Fair Share Percentages

The SANBAG Nexus Study includes an estimate of growth in dwelling units and employment expected over the planning period of the Nexus Study. These estimates were prepared by local jurisdictions in conjunction with SANBAG and development of the growth forecasts included in the 2004 SCAG Regional Transportation Plan (RTP). The planning period for growth estimates will remain 2004 to 2030, corresponding to the timeframe for the project lists. Supplemental nexus studies with new project lists and a new planning horizon with revised growth estimates will require authorization by the SANBAG Board and will be structured as an overlay of the existing 2004-2030 program.

The Nexus Study includes an estimate of minimum fair share development contributions for regional transportation improvements based on the estimates of project costs and the growth data provided by local jurisdictions. The SANBAG Nexus Study contains the methodology for calculating the fair share requirement. It is the goal of SANBAG to maintain and use a stable dataset to calculate the development fair share percentages. Year 2004 will continue to serve as the Nexus Study baseline year and year 2030 will continue to serve as the horizon year for purposes of calculating minimum fair share percentages. Updates to the socio-economic data contained in the Nexus Study are possible when the jurisdiction has evidence to substantiate modification. Any modification to the socio-economic data should be logically related to the growth forecasts included in the currently adopted Regional Transportation Plan.

The fixed equitable shares in the Valley Arterial Sub-program and the approximately equivalent shares in the Victor Valley Major Local Highways Program will require any jurisdiction reducing its growth forecast (and its associated fair share percentage) to either reduce the project costs included in its program or overmatch the minimum development share to maintain program balance. Jurisdictions may not increase the public share cost to SANBAG, or otherwise affect the availability of public share resources to other jurisdictions in the program.

The Nexus Study calculates minimum fair share targets for each local jurisdiction and for the jurisdiction's sphere of influence. Fair share amounts for special districts or subareas may also be calculated based on the Nexus Study methodology if that information is provided to SANBAG by a local jurisdiction. For SANBAG to calculate fair share contributions for sphere areas, special districts or subareas, the city or County must identify the specific geographic boundary of any special districts or subareas used as the basis for the calculation of fair shares, and the growth estimates must be consistent with the boundaries they have defined.

J.3. Qualifying Local Jurisdiction Development Mitigation Programs

Each local jurisdiction in the San Bernardino Valley and Victor Valley shall implement and maintain a development mitigation program that is projected to meet or exceed the fair share requirement for development contributions identified in the most current SANBAG-approved version of the Nexus Study. The program must meet or exceed the requirement for each individual program area (i.e. regional arterials, interchanges, and railroad grade separations) listed in the Nexus Study. The local jurisdiction has flexibility in designing a development mitigation program that achieves the level of contributions from new development consistent with that jurisdiction's total fair share requirement in the Nexus Study.

Types of development contributions may include a development impact fee (DIF) program, programs of road and bridge benefit districts, other special assessment districts, community facilities districts (CFDs), or other development contributions and funding consistent with the Measure I 2010-2040 ordinance and the SANBAG CMP. Each local jurisdiction must establish a clear definition of the sources of funds for inclusion in the development mitigation program.

Local jurisdictions may maintain development mitigation programs for local (non-regional) transportation improvements. However, non-regional projects will not be included in the SANBAG Nexus Study and will not be eligible for Measure I Valley Major Street, Freeway Interchange, and Victor Valley Major Local Highways funds, In evaluating a local jurisdiction's development mitigation program for compliance with the CMP, SANBAG staff will exclude development contributions for transportation facilities not included on the Nexus Study Network.

Local jurisdictions may update their development mitigation programs at any time. Any updates must maintain compliance with CMP requirements. SANBAG must be notified of the intent to amend the program at least 60 days prior to amendment and full documentation of the amendment must be provided to SANBAG within 30 days following local jurisdiction approval. This includes any amendments to the program made as a result of annexations. For amendments made due to annexations, sufficient information (e.g. transfer of growth and project costs from the County to a city) must be provided to allow SANBAG to determine how each jurisdiction's fair share target amount and equitable share is affected, which will allow local jurisdictions to subsequently modify their development mitigation program. However, a formal revision of the Nexus Study by SANBAG will not occur until the next Nexus Study update cycle.

Annually, local jurisdiction development mitigation programs must adjust project cost estimates. The cost escalation methodology was revised by the SANBAG Board of Directors on May 6, 2009 and incorporates the following elements:

- Cost escalation factor is based on the prior year's (Jan-Dec) rate of escalation in the Caltrans Construction Cost Items Index.
- Cost escalation factor contains a floor of 0% and a ceiling of 15%.
- Any amount under the floor or over the ceiling will be credited against the following year's escalation factor.

Each city council/Board of Supervisors must approve the adjustments on an annual basis and reflect those adjustments in local development impact fees or other per-unit mitigation levels or assessments. The adjustments shall be based on an escalation factor approved by the SANBAG Board of Directors. The adjustment must be adopted by the city council/Board of Supervisors by either January 1 or July 1 following the approval of the escalation factor by the SANBAG Board, depending on the timeline chosen by the local jurisdiction and documented in the Nexus Study. The Nexus Study includes a list of local jurisdiction development mitigation program update adoption timelines.

Completed projects will remain in the Nexus Study project list throughout the balance of the program. Following project completion, the Nexus Study will be updated to include the actual project cost for the project. Each year, project costs for completed projects must be escalated based on the SANBAG Board approved escalation factor. The escalation of costs for completed projects ensures that all development that benefits from a project pay for its fair share of the project.

J.4. Maintenance of Local Jurisdiction Development Mitigation Funds

Contributions and funding from new development for regional transportation improvements will be retained and managed by local jurisdictions until expended. Each local jurisdiction must maintain a development mitigation account consistent with the California Government Code 66000 et. seq. Any fee credit program shall be the responsibility of the local jurisdiction. Policies governing fee credits are included in the Measure I Strategic Plan.

As an option, the local jurisdiction may arrange for SANBAG to retain the regional portion of the development contributions collected by the local jurisdiction, to be disbursed only on projects for which the local jurisdiction is responsible. This may, at the local jurisdiction's option, include SANBAG's retention of only the funds associated with the fair share contributions for interchange improvements. SANBAG reserves the right to audit transactions within local jurisdiction development mitigation funds pertaining to Nexus Study projects.

J.5. Coordinating Development Mitigation Programs for Cities with Spheres of Influence

Jurisdictions must maintain development mitigation fund accounts for any special districts or subareas used as the basis for establishing levels of contribution from new development. Where the County of San Bernardino and a city establish a combined development mitigation program for that jurisdiction and its sphere of influence, the County shall maintain a development mitigation fund specifically for that sphere of influence, unless the city and County make an alternate arrangement that still achieves their combined fair share requirement.

In a sphere of influence or other County subarea, the County determines which projects will be included in the Nexus Study. Local jurisdictions and the County may negotiate a common project list. However, should there be a discrepancy between the lists, SANBAG staff will defer to the County's desired project list.

Development contributions from growth in that sphere area shall be expended on projects in that sphere area and on the sphere's share of interchange projects. The County and cities may execute alternate agreements for the management of development contributions for sphere areas. Such agreements between the County and a city governing development mitigation in the sphere area shall address the use and/or transfer of funds in the event that an annexation occurs. A copy of this agreement, or any modifications to the agreement, shall be provided to SANBAG within 30 days of execution by the city and County.

When the sphere of influence is included as part of a city's geographic area for purposes of DIF program fee calculation, it is expected that the fees for regional transportation improvements by land use type will be the same for areas within the city boundary and within the sphere. If a city or the County includes additional local (non-regional) roadway projects in their program, it is possible that the fees may vary between the city and sphere areas. Fees will still be collected by the County for unincorporated areas and spent within the sphere area from which they were collected, unless a different agreement is executed between the city and County.

The County and each individual city may jointly determine whether or not to include the sphere area as part of the city's fair share calculation. If a sphere is not included with the corresponding city for fair share calculation purposes, the County will need to delineate the alternate geographic boundaries to be used for unincorporated areas. The County will need to maintain records for individual city spheres or other County-defined geographic areas.

J.6. Expenditure of Development Contributions

Each jurisdiction will be responsible for determining when development contributions from their own development mitigation program are to be expended on projects within their jurisdiction or on their portion of projects shared with another jurisdiction. Each jurisdiction will be expected to contribute dollars to a project equal to or greater than the fair share percentage (as determined by the Nexus Study) of the actual project cost (as adjusted based on qualifying federal or state appropriations that reduce the project cost). The Measure I Strategic Plan has identified additional requirements for use of Measure I, State, or Federal funds. Jurisdictions should recognize that State, Federal, Measure I 2010-2040 Valley Interchange and Major Street Funds, or Victor Valley Major Local Highways Funds may not be available on demand to cover the full non-fair share portion of the cost for a specific project listed in the Nexus Study.

Policies are in place governing the identification of needs, apportionment and allocation process as well as the Advance Expenditure Program. Refer to the Strategic Plan for the specific policies.

Local jurisdictions will not be forced to participate in a multi-jurisdictional project but must abide by the provisions of state law regarding collection and disbursement of development contributions. Jurisdictions requesting funds for a multi-jurisdictional project must execute a Development Mitigation Cooperative Agreement prior to receiving an allocation of Measure I funding for the project.

Arterial Improvements - For arterial improvements and railroad grade separations, the lead local jurisdiction (jurisdiction in which the project is located) shall determine when development contributions are to be applied to specific projects and when application will be made for other funds (Measure I, State or Federal). Although each jurisdiction is responsible for its own arterial improvements under the development mitigation program, the provisions of the California Environmental Quality Act (CEQA) remain applicable when considering the impact of development projects on other jurisdictions. Adjacent jurisdictions should be informed via copies of Environmental Impact Reports (EIRs) when such impacts are identified and EIRs are prepared.

Interchange Improvements - Application for funds from the Freeway Interchange Program will need to include a Development Mitigation Cooperative Agreement prior to receiving an allocation of Measure I funds from SANBAG, where more than one jurisdiction is responsible for the development share. The sponsoring agency for the project will be required to coordinate the execution of the cooperative agreement. For interchange improvements, the lead local agency (or possibly co-lead agencies where the interchange footprint is in two or more jurisdictions) determines when requests will be made for funds (Measure I, State or Federal) to be used in combination with development contributions. Policy 40005 defines the conditions under which SANBAG may assume project management responsibilities for an interchange in the Valley. Should the SANBAG Board decide to assume project management responsibilities, SANBAG will be responsible for coordination of development mitigation for the project.
Provisions for development mitigation loan programs addressing internal loans (loans from various funds within a jurisdiction) and external loans (loans between SANBAG and a jurisdiction) may be found in the Measure I Strategic Plan.

J.7. Additional Guidelines for Development Impact Fee Programs and special assessment districts

For DIF programs, fees will be established by each local jurisdiction. Local jurisdictions must demonstrate that the development mitigation program established will achieve the Nexus Study fair share requirements for regional projects by project type, if the projected growth occurs.

Fee and assessment districts may be established defining development contribution fair share requirements for regional transportation projects within subareas of a jurisdiction. The fair share requirements would be established based on the project costs and projected growth for that district. The development contribution requirement for the district must include the fair share of interchange improvement costs associated with that district in the SANBAG Nexus Study. Any project costs included in the special district would be excluded from the larger, jurisdiction-wide fee program.

Projects may be added to an existing special district to satisfy the fair share target amounts, but it must be demonstrated that the legal mechanism exists to assess the additional costs to development projects in that existing district. Otherwise, the additional costs for regional improvements associated with that special district must be included in the jurisdiction-wide development mitigation program. Development contributions obtained from the district would be expended on regional transportation projects in the district or on the fair share of an interchange project for which the district is responsible. The interchange portion of the district's development mitigation fund must be accounted for separately, or the special district may maintain an agreement for the local jurisdiction to manage the interchange portion of the fund in conjunction with the jurisdiction-wide development mitigation fund.

J.8. Annual Reports

The local jurisdiction must submit an annual development mitigation report to SANBAG. The annual report is an informational document and does not require approval by the local jurisdiction's elected body. If the development mitigation program contains individual districts (e.g. road and bridge benefit districts separate from a jurisdiction-wide program), reporting must be specified by district. The County must organize its annual report by sphere area or by other geographic subareas established in their development mitigation program. By agreement with the corresponding city, the County may include the reporting for its sphere together with the city's annual report. The annual report must contain the following information:

1. Quantity of development for which development contributions were generated by development type.
2. Total development contributions by development type, including any fee credits or in-lieu fees.
3. Other types of development-related transportation funds applied to projects during the year (e.g. grants)
4. Funds expended from the development mitigation program (engineering, right-of-way, construction, etc.) on regional transportation projects listed in the local jurisdiction's development mitigation program. The funds expended must be listed by individual project and must be reported for the current year and cumulatively for each project.
5. Credits, refunds or other adjustments to development mitigation accounts.
6. Dollar amount of internal loans to cover development mitigation used for projects without the full development mitigation share available at the time of allocation or as defined by the Capital Projects Need Analysis.

The annual report shall be provided to SANBAG by local jurisdictions within 90 days of the end of the fiscal year (September 30 of each year). SANBAG will provide formats and forms (electronic and/or hard copy) for agencies to use in preparing the reports.

J.9. Compliance

Local jurisdictions must maintain their CMP development mitigation program in accordance with requirements in Appendix J. Local jurisdictions may be found out of compliance with the CMP Land Use/Transportation Analysis Program in one of the following ways:

1. Failure to adopt and maintain a development mitigation program that satisfies the CMP criteria.
2. Failure to provide development mitigation program updates within the prescribed time frames.
3. Failure to submit complete annual reports to SANBAG in a timely manner.

The SANBAG Executive Director will notify a local jurisdiction in writing when the jurisdiction appears to be failing to conform to the CMP and the development mitigation program. Following initial notification that a jurisdiction is failing to conform, the jurisdiction will have 30 days to respond to SANBAG with plan of action and up to 45 days to take the necessary corrective actions identified in the plan to bring the program back into conformity.

If a jurisdiction fails to provide a plan of corrective action within 30 days or fails to follow through with the corrective actions indentified in the plan within 45 days, a public hearing on the matter will occur, per the provisions of State law, and SANBAG staff will request a determination by the Board of Directors that the jurisdiction is not conforming to the requirements of the CMP. Should the Board of Directors approve a finding that the jurisdiction is not conforming to the requirements of the CMP, the Executive Director will notify the jurisdiction in writing of the finding. Following receipt of the letter by a jurisdiction, it will have 90 days to bring its development mitigation program into compliance. If the program is not brought into compliance within the designated period, the Executive Director will recommend a final finding of non-conformity to the SANBAG Board of Directors. At that point, the provisions of state law will be applied regarding withholding of Section 2105 gas tax dollars and re-establishment of conformity with the CMP.